

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAEED S. AOBAD,

Plaintiff,

-against-

BUILDING SERVICE 32 BJ PENSION FUND,
et al.,

Defendants.

23-CV-1730 (JPO)

ORDER OF SERVICE

J. PAUL OETKEN, United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12112-12117, alleging that Defendants discriminated against him based on his disability by denying his application for long-term disability pension benefits. The Court also construes the complaint as asserting claims under the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1001 *et. seq.* By order dated March 2, 2023, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees. The Court directs service on Defendants Building Service 32 BJ Pension Fund, Building Service 32 BJ Health Fund; and Building Service 32 BJ Benefits Fund.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Building Service 32 BJ Pension Fund, Building Service 32 BJ Health Fund, and Building Service 32 BJ Benefits Fund through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each defendant. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue summonses, complete the USM-285 forms with the addresses for Building Service 32 BJ Pension Fund, Building Service 32 BJ Health Fund, and Building Service 32 BJ Benefits Fund, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further instructed to mail Plaintiff an information package.

SO ORDERED.

Dated: April 12, 2023
New York, New York



J. PAUL OETKEN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Building Service 32 BJ Pension Fund
25 West 18th Street
New York, NY 10011
2. Building Service 32 BJ Health Fund
25 West 18th Street
New York, NY 10011
3. Building Service 32 BJ Benefits Fund
25 West 18th Street
New York, NY 10011